

**U S Army Corps  
of Engineers**  
Huntington District

# Public Notice

In reply refer to Public Notice No.

199900748-1

Issuance Date:

September 13, 2006

Stream: UN Trib Sand Run

Closing Date:

October 13, 2006

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-E Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

**PUBLIC NOTICE:** The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

**REGULATORY PROGRAM:** Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

**SECTION 404:** The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

**TO WHOM IT MAY CONCERN:** The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Department of Environmental Protection (OEPA) to act on Section 401 Water Quality Certification for the following application:

**APPLICANT:** Holmes Rental Station  
2465 State Route 39  
Sugar Creek, OH 44681

**LOCATION:** The proposed project is located approximately 1.3 miles south of Millersburg, Holmes County, Ohio.

**DESCRIPTION OF THE PROPOSED WORK:** The applicant proposes to place fill material

into approximately 0.4 acre of wetland in association with the expansion of an existing equipment rental facility business. Specifically, the impact would be associated with the construction of an additional storage facility to store rental equipment. Under Nationwide Permit (NWP) 26 verification dated November 9, 1999 (199900748–UN Trib to Sand Creek), the applicant was authorized to impact all 2.97 acres (ac) of wetlands previously identified within the site in association with the existing facility. The NWP 26 authorization has since expired, and this NWP cannot be modified to include the currently proposed impacts. In total, approximately 0.4 ac of wetland would be permanently impacted as a result of the applicant's preferred alternative.

**ALTERNATIVE ANALYSIS:** This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal. The applicant has submitted the required alternatives analysis, and it is currently being reviewed by this office.

**MITIGATION PLAN:** The applicant provided a compensatory mitigation plan to compensate for temporary and permanent impacts to waters of the United States regulated by the United States Army Corps of Engineers. The proposed compensatory mitigation under the applicant's preferred alternative would include the purchase of 0.4 ac of wetland credit from the Chippewa North Mitigation Site and 0.4 ac of wetland credit from the Brewster Wetland Mitigation Bank. For the previously authorized impacts to 2.97 ac of wetland, the applicant submitted payment to the Cleveland Museum of Natural History for the preservation of 6 ac of wetlands at the Singer Lake Bog.

A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain the certification from the OEPA.

**HISTORIC AND CULTURAL RESOURCES:** The National Register of Historic Places has been consulted and it has been determined that there no listed properties listed on the Register in the area affected by the project. A copy of this public notice will be furnished to the Ohio State Historic Preservation Office for their review. Comments concerning archeological sensitivity of the project area should be based upon collected data.

**ENDANGERED/THREATENED SPECIES REVIEW:** This project is located within the known or historic range of the following federally-listed species:

Indiana bat  
Bald eagle  
Eastern prairie fringed orchid

The Huntington District has consulted the most recently available information and based on this information, the proposed project is not likely to affect the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This public notice serves as a request

to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

**PUBLIC INTEREST REVIEW AND COMMENT:** Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

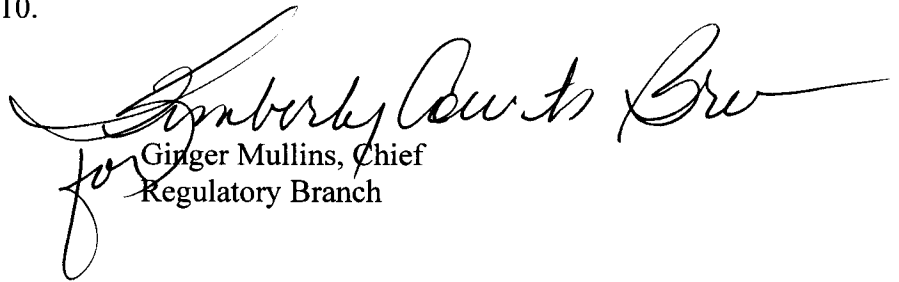
**SOLICITATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections.

Comments and requests for additional information should be submitted to:

Mr. Jim Spence  
North Regulatory Section, CELRH-OR-FN  
U. S. Army Corps of Engineers Huntington District  
502 Eighth Street  
Huntington, West Virginia 25701-2070

Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Jim Spence of the North Regulatory Section at 304-399-5210.



Ginger Mullins, Chief  
Regulatory Branch

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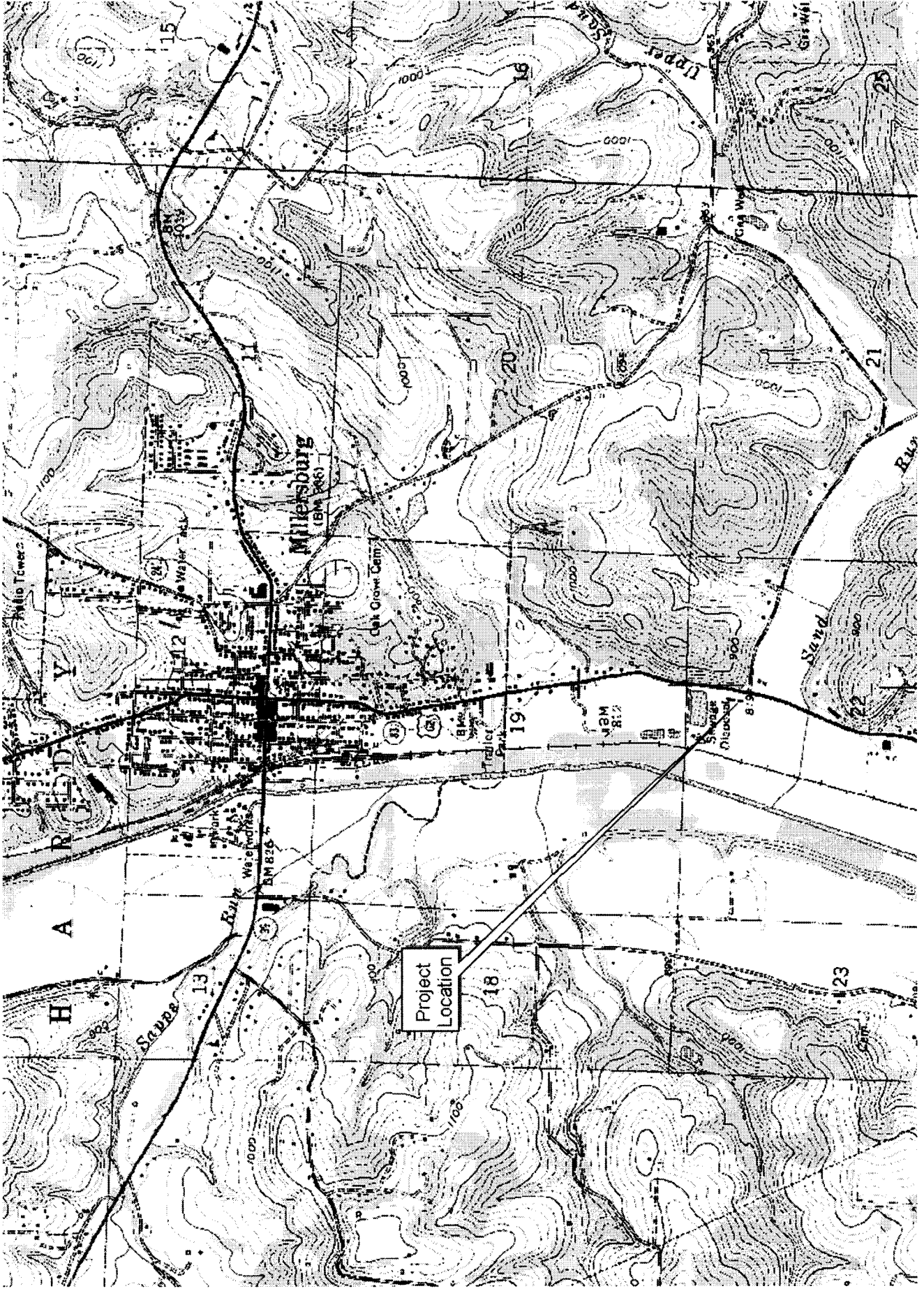


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